

**BEFORE THE MINNESOTA
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of
Eric Schwartz, EMT-Basic
Certificate Number: 925436

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

On April 13, 2006, the Complaint Review Panel ("Panel") of the Minnesota Emergency Medical Services Regulatory Board ("Board" or "EMSRB") initiated the above-entitled proceeding against Eric Schwartz, EMT-Basic ("Respondent"), by service of a Notice of Petition and Petition to Suspend Certification.

The matter came on for consideration by the Board pursuant to Minnesota Statutes section 144E.28, subdivision 5(b) (2004), at a regularly scheduled meeting on May 18, 2006, convened in Conference Room A (fourth floor), University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota 55414.

Rosellen Condon, Assistant Attorney General, appeared and presented oral argument on behalf of the Panel. Respondent was not present or otherwise represented at the meeting. Nathan W. Hart, Assistant Attorney General, was present as legal advisor to the Board.

The following members of the Board were present: Lori Brown; Megan Hartigan, R.N.; Laurie Hill; Robert Jensen; Mark Lindquist, M.D.; Karla McKenzie; Kevin Miller; Donald Otte; Michael Parrish; and Marlys Tanner, R.N. As a member of the Panel, Megan Hartigan, R.N., did not participate in deliberations or vote in the matter.

Based on the record and the proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. On November 18, 2004, Respondent was drinking with friends and then returned to the fire department where he was living. On November 19, 2004, between 7:00 a.m. and 8:00 a.m., Respondent answered a page for a cardiac arrest and drove the ambulance to the scene. Respondent was observed having difficulty backing up the ambulance at the patient's home. At the scene, a co-worker smelled alcohol on Respondent's breath. Respondent provided no patient care and did not drive the ambulance back to the station.

2. After Respondent returned to the station, he drove to a friend's house and drank more alcohol. Respondent then drove to a gas station and drove back to the fire department. Respondent was approached by a police officer and arrested for Second Degree DUI.

3. On December 13, 2004, a mandatory report of termination was filed with the Board by the White Bear Lake Fire Department. The report stated that Respondent, a volunteer, was terminated by the fire department on November 29, 2004, for driving an ambulance to the scene of a 911 call while under the influence of alcohol.

4. Respondent voluntarily entered chemical dependency treatment on December 13, 2004, and was discharged on January 7, 2005. Respondent successfully completed the aftercare program on April 11, 2005.

5. At the time of his arrest, Respondent had not passed the EMT-Basic written examination. He did so in December 2004 and was issued an EMT-B certificate on February 16, 2005.

6. On March 31, 2005, the Panel sent a letter to Respondent requesting information regarding the termination.

7. On April 4, 2005, Respondent was interviewed by a Board investigator. He admitted that he had been drinking prior to driving the ambulance on November 19, 2004. He stated he did not provide patient care or drive back to the fire department.

8. A Notice of Conference ("Notice") was served on Respondent on June 10, 2005. Following his conference with the Panel on July 13, 2005, Respondent entered into an Agreement for Corrective Action ("Agreement"), which became effective on August 16, 2005. One of the terms of the Agreement required Respondent to participate in the Health Professionals Services Program ("HPSP"). Respondent was required to schedule an appointment with HPSP within 30 days of the Agreement.

9. Respondent failed to contact HPSP and was discharged from the program on September 23, 2005.

10. On October 11, 2005, Respondent was served with another Notice. It scheduled a conference between the Panel and Respondent for November 14, 2005. The Notice asked Respondent to submit a written response to the allegation that he had failed to contact HPSP within 30 days of the Agreement. His written response was due at the Board office by November 1, 2005. In addition, the Notice informed Respondent that his failure to attend the conference could constitute independent grounds for Board disciplinary action against his certification as an EMT-Basic under Minnesota Statutes section 144E.30, subdivision 3.

11. Respondent failed to appear before the Panel on November 14, 2005, and provided no prior notice that he would not be present. Further, he failed to provide any written response to the allegations in the Notice.

Based upon the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 144E.28 and 144E.30 (2004).

2. Respondent was given timely and proper notice of the May 18, 2006, hearing before the Board and of his right under Minnesota Statutes section 144E.28, subdivision 5(b), to request a contested case hearing to be conducted in accordance with Minnesota Statutes chapter 14.

3. The Panel has complied with all relevant substantive and procedural requirements of statute and rule.

4. The Panel has proven by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 144E.30, subdivision 3, by failing to cooperate with a Board investigation.

5. The Panel has proven by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 144E.28, subdivision 5(4), in that he is actually or potentially unable to provide emergency medical services with reasonable skill and safety to patients by reason of illness or use of alcohol.

6. As a result of the violations set forth above and Respondent's failure to request a contested case hearing within 30 days of receipt of notice of his right to do so or at any time, the Board has the authority without further proceedings to take disciplinary action against Respondent's EMT-B certification. Minn. Stat. § 144E.28, subds. 4 and 5, and Minn. Stat. § 144E.30, subd. 3 (2004).

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following:

ORDER

1. Respondent's EMT-Basic certificate is **SUSPENDED**, effective immediately. At no time subsequent to the date of this Order shall Respondent engage in any act in Minnesota which constitutes practice as an emergency medical technician as defined in Minnesota Statutes sections 144E.001 and 144E.28, nor shall he in any manner represent or hold himself out as being authorized to so practice.

2. Not later than 7 (seven) days from the date of this Order, Respondent shall surrender and cause the Board to receive his current EMT-Basic certificate card.

3. Respondent may apply to the Board for reinstatement of his certification as an EMT-Basic not earlier than 6 (six) months from the date of this Order. Any such application shall be accompanied by:

a. The results of a chemical dependency evaluation administered to Respondent at his expense by a licensed provider since the date of this Order;

b. Evidence that Respondent has successfully completed or is successfully participating in any and all treatment indicated by the chemical dependency evaluation; and

c. Evidence of compliance with all applicable continuing education or training requirements under Minnesota Statutes section 144E.28, subdivisions 7 and 8.

4. Respondent shall appear before the Panel to review any application for reinstatement submitted pursuant to paragraph 3. The burden of proof shall be on Respondent to demonstrate that he is able to provide emergency medical services in a fit and competent manner without risk of harm to the public. The Board reserves the right to approve an application for reinstatement only upon the imposition of conditions and limitations which the Board deems

necessary to ensure public protection. Such conditions and limitations may include, but need not be limited to, restricted duties and practice supervision.

5. This Order is a public document.

The foregoing Findings of Fact, Conclusions, and Order constitute the Decision of the Board in this matter.

Dated this 25 day of May, 2006.

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

By: 
MICHAEL PARRISH
Board Chair

AG: #1593093-v1